U. S. Army Homosexual Conduct Policy

Don’t Ask, Don’t Tell, Don’t Harass

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- Implements 10 U.S. Code § 654
- Implements DoD Policy
- AR 600-20, chapter 4-19
- Army policy is a balance between the legal prohibition of homosexual conduct and the privacy rights of soldiers

What does the Law Say?

- “The presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.”

10 U.S.C. § 654

The Law and Army Policy in Everyday Language

- Don’t Ask, Don’t Tell
- Homosexual Conduct is:
  - Admission of homosexuality
  - Committing a homosexual act
  - Marrying or attempting to marry a person of same sex
- Train the Force
  - Recruiting
  - IET
  - Periodic

What Does ‘Don’t Ask” Mean?

- Applicants for enlistment will not be asked nor required to reveal their sexual orientation.
- Applicants for enlistment will not be asked if they have engaged in homosexual conduct.
- While on active duty, soldiers will not be asked about their sexual orientation or conduct unless there is credible information of

What Does “Don’t Tell” Mean?

- “Don’t Tell” is the opposite side of the coin from “Don’t Ask.”
- Soldiers should not disclose or discuss their sexual orientation or conduct.
- If a soldier admits to being homosexual, the commander will begin the process to determine if credible information exists which would warrant separation.

What is Credible Information?

- **A statement by a reliable person that a soldier has:**
  - engaged or solicited to engage in a homosexual act
  - heard the soldier state that he or she was homosexual
  - heard the soldier state that he she had married or attempted to marry a member of the same sex.
- **A statement by a reliable person that they had observed a soldier admitting to or engaging in homosexual conduct.**

What Is Not Credible Information?

- Rumors that a soldier is homosexual
- Others opinions that a soldier is homosexual
- Going to a homosexual bar, reading homosexual publications, associating with known homosexuals or marching in homosexual rights rallies in civilian clothes
- Reports of being harassed shall not by itself constitute credible information justifying the initiation of an investigation.

What are Grounds for Investigation?

- Credible information must exist.
- A commander must have a reasonable belief that a soldier has:
  - Engaged or solicited to engage in a homosexual act
  - Stated that he or she is a homosexual or otherwise indicated a propensity to engage in homosexual conduct
  - Married or attempted to marry a person of the same sex

Substantial Investigation

- The initiation of any ***substantial investigation*** into whether an admission of homosexuality was made for the purpose of seeking separation from the Army and/or determining whether recoupment of financial benefits is warranted must be approved at the Army Secretariat level.
- Definition of substantial investigation: An investigation that extends beyond questioning the member, individuals suggested by the member for interview and the member's immediate chain of command.

DoD Directed Policy Changes

- Installation Judge Advocates will consult senior legal officers at a higher HQ prior to the initiation of an investigation.
- Initiation of substantial investigations into admission of homosexuality for the purpose of separation will be made at the secretarial level.
- The IG will inspect homosexual conduct policy training.

Zero Tolerance for Harassment

- **Definition:** Derogatory, persistent, threatening or annoying behavior directed toward an individual or group.
- **Possible types of harassment**
  - Verbal (on or off duty)
  - Jody calls regarding homosexuals
  - Derogatory language or references about homosexuals
  - Graffiti in latrines, bulletin boards, etc.
  - Anonymous threats; telephonic, electronic, etc.

Harassment

- All soldiers will be treated with dignity and respect and will be afforded a safe and secure environment in which to live and work.
- Harassment of soldiers for any reason, to include perceived homosexuality, will not be tolerated.
- Commanders at every level will take appropriate action to prevent harassment of or threats against any member of the Army.

What Can a Soldier Do If Threatened, Harassed or Accused of Being Homosexual?

- Report harassment at once to the commander
- Commanders will take appropriate action to protect the safety of soldiers who report threats or harassment.

Who Can a Soldier Talk with Confidentially?

- Legal Assistance Attorney
- Chaplain

Summary

The challenge to all soldiers is to comply with the law that prohibits homosexual conduct while at the same time respecting the privacy and dignity of every soldier.